

REMARKS

This application is a 371 filing of PCT International application no. PCT/EP2003/012129 filed October 31, 2003. Original claims 1-12 of the priority application were cancelled by Preliminary Amendment at the time of filing and new claim 13 was added. Claim 13 is amended above and new claims 14-17 are added. Claims 13-17 are, therefore, pending in the application.

Support for new claims 14-17 is found in original claims 1-12 of the international application. No new matter is added by the amendment.

Priority/Specification

Claim 13 is amended above and the term “exogenous labeled TSH receptor autoantibodies” has been replaced with “labeled affinity-purified polyclonal human autoantibodies against the TSH receptor” to clarify the type of autoantibodies used in the claimed method. Support for the amendment can be found at page 8, lines 23-26 in the present specification (which is a certified English translation of PCT/EP03/012129 filed October 31, 2003) and in original claims 1-12 of the priority application.

The Examiner’s request that the specification be reviewed and corrected to the extent errors are contained therein is duly noted. An amendment to the specification to correct errors will be made once the pending claims are found to be allowable.

Claim Objections

Claim 13 is objected to because the abbreviation “TSH” does not appear in unabbreviated form. Accordingly, claim 13 is amended above.

Rejection under 35 U.S.C. §112, second paragraph

Claim 13 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite because, the Office Action alleges, the term “exogenous” is a relative term which renders the claim indefinite.

Applicants believe that one of skill in the art would appreciate that the term “exogenous” is used in claim 13 to denote a source of competitive autoantibodies that is separate from the biological sample being tested, which also contains anti-TSH receptor autoantibodies. Nonetheless, Claim 13 is amended above to clarify that the “exogenous” autoantibodies are affinity-purified polyclonal human autoantibodies against the TSH receptor. New claim 15 further identifies the antibodies as affinity-purified antibodies as originating from pooled sera from individuals with Graves’ disease.

In view of the above amendment, withdrawal of the rejection under 35 U.S.C. §112, second paragraph is respectfully requested.

Rejection under 35 U.S.C. §102

Claim 13 is rejected under 35 U.S.C. §102(b) as being anticipated by Morgenthaler et al. As explained above, in view of the above amendment, Applicant has established a right of priority at least as early as the filing date of the PCT international application, i.e., October 31, 2003. Morgenthaler et al. was first available as a reference on November 13, 2003, which is later than Applicants’ international filing date. Morgenthaler et al., therefore is unavailable as prior art under 35 U.S.C. §102(b).

Withdrawal of the rejection under 35 U.S.C. §102 is respectfully requested.

It is respectfully submitted that the above-identified application is now in condition for allowance and favorable reconsideration and prompt allowance of these claims are respectfully requested. Should the Examiner believe that anything further is desirable in order to place the application in better condition for allowance, she is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,



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